

Article - Health - General

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§19–1809.

(a) (1) A person may not knowingly and willfully operate, maintain, or own an assisted living program without a license.

(2) A person who violates paragraph (1) of this subsection is guilty of a felony and on conviction is subject to:

(i) For a first offense, a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both; or

(ii) For a subsequent offense, a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

(3) If the Department finds an assisted living program to be in violation of paragraph (1) of this subsection, the Department shall send written notice to the program 30 days before the State files charges under this section in order to give the program an opportunity to come into compliance with licensure requirements.

(4) A person may not be subject to paragraph (2) of this subsection if the person has:

(i) Applied in good faith to the Department for an assisted living program license;

(ii) Is awaiting a decision from the Department regarding the application; and

(iii) Has not been denied an assisted living program license on a prior occasion.

(5) In recommending the amount of the criminal penalty under paragraph (2) of this subsection, the State shall consider factors including the nature, number, and seriousness of the violations and the ability of the assisted living program to pay the penalty.

(6) A violation of paragraph (1) of this subsection shall be a violation of the Consumer Protection Act.

(b) (1) (i) A person may not advertise, represent, or imply to the public that an assisted living program is authorized to provide a service that the program is not licensed, certified, or otherwise authorized by the Department to provide when the license, certificate, or authorization is required under this subtitle.

(ii) A person may not advertise an assisted living program in a misleading or fraudulent manner.

(2) (i) A person who violates paragraph (1) of this subsection is subject to a civil money penalty imposed by the Secretary not exceeding \$10,000 for each offense.

(ii) In setting the amount of a civil money penalty on the program under subparagraph (i) of this paragraph, the Secretary shall consider factors including the nature, number, and seriousness of the violations and the ability of the assisted living program to pay the penalty.

(c) (1) A person may not willfully and knowingly refer another person to an assisted living program that is operating without a license.

(2) A person who violates paragraph (1) of this subsection is subject to the following civil penalties:

(i) For a first offense, a civil penalty not exceeding \$1,000;

(ii) For a second offense, a civil penalty not exceeding \$2,000;

or

(iii) For a third or subsequent offense, a civil penalty not exceeding \$3,000.

(3) The Secretary shall remit all civil penalties collected under this subsection to the Office of Health Care Quality for the purposes of carrying out the provisions of § 19–1813 of this subsection.

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